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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-fifth Session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Marshall Islands

1. The Committee considered the initial report of Marshall Islands (CRC/C/28/Add.12), received on 18 November 1998, in its 659th and 660th meetings (see CRC/C/SR.659 and 660), held on 29 September 2000, and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and the written replies to its list of issues (CRC/C/Q/MAR/1). The Committee notes with appreciation the high-level delegation sent by the State party and welcomes the positive reactions to the suggestions and recommendations made during the discussion.

B. Positive aspects

3. The Committee takes note of the establishment in 1991 of the National Nutrition and Children's Council (NNCC) and acknowledges its major role in the overall preparation of the State party's initial report.

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* At the 669th meeting, held on 6 October 2000.

4. The Committee notes with appreciation the holding of two national workshops on the Convention which took place respectively in Majuro (early 1999) and Ebeye (May 2000), leading to the production of a workplan at community level in the areas of health, nutrition, child protection, child participation and education.

5. The Committee welcomes the production and dissemination of a pamphlet on articles of the Convention in the Marshallese language.

6. The Committee welcomes the completion of a national curriculum for primary education, which sets up teacher training programmes and establishes a community-based governance system, and takes note of the ongoing teacher training programmes for primary school teachers and the increasing teacher-pupil ratio.

C. Factors and difficulties impeding the implementation of the Convention

7. The Committee acknowledges that socio-economic and geographic difficulties facing the State party, as well as customary practices and traditional attitudes, have impeded the full implementation of the Convention. In particular it notes the challenges faced by the State party in implementing adequate programmes and services for children in its dispersed island communities, some of which are isolated, very difficult to reach and have few inhabitants.

D. Subjects of concern and recommendations of the Committee

1. General measures of implementation

Legislation

8. The Committee notes with concern that the Convention has not yet been enacted into law, which is necessary in order for it to be a part of the Marshallese legal system. Further, while welcoming the request by the Ministry of Internal Affairs to UNICEF for assistance in the review of all aspects of its domestic legislation relating to children, it expresses its concern that the domestic legislation and customary law do not fully reflect the principles and provisions of the Convention.

9. The Committee recommends that the State party take all necessary steps to incorporate the Convention into domestic law and that it undertake the review of all aspects of its domestic legislation relating to children with a view to ensuring full conformity with the principles and provisions of the Convention. It also recommends that the State party consider the enactment of a comprehensive children's code. In this regard, the Committee further recommends that the State party seek additional technical assistance from, among others, UNICEF.

10. The Committee notes with concern that the State party has not yet ratified the major United Nations human rights treaties, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, or other relevant international conventions, like the Hague Convention on the Civil Aspects of International Child Abduction of 1980 and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions of 1993.

11. The Committee recommends that the State party consider ratifying at least the major human rights treaties and relevant conventions adopted at The Hague with a view to strengthening the human rights culture in the country.

Coordination

12. The Committee is concerned at the absence of a focal point for children within the Government and at the lack of mechanisms at the national and local levels for coordinating policies relating to children and for monitoring the implementation of the Convention.

13. The Committee recommends that the State party consider establishing a focal point within the Government and coordination mechanisms between the various ministries, as well as between central and local authorities, with a view to developing a comprehensive national strategy or plan of action for children and ensuring the implementation of the Convention in the country and its regular evaluation.

Allocation of budgetary resources

14. The Committee remains concerned that in light of article 4 of the Convention, not enough attention has been paid to allocating budgetary resources in favour of children, in particular those who live in the outer islands.

15. In light of articles 2, 3, and 6 of the Convention, the Committee encourages the State party to pay particular attention to the full implementation of article 4 of the Convention by prioritizing budgetary allocations to ensure implementation of the economic, social and cultural rights of children to the "maximum extent of ... available resources and, where needed, within the framework of international cooperation".

Independent monitoring structures

16. The Committee notes with concern that there is no independent body to monitor observance of the implementation of children's rights with a view to promoting and protecting them and to deal with individual complaints concerning all children's rights not only violations of law.

17. The Committee encourages the State party to consider creating an independent child-friendly body easily accessible to children such as an ombudsperson or a national commission for children's rights, the establishment of which must be in keeping with the Paris principles (General Assembly resolution 48/134, annex), to monitor the implementation of the Convention and to deal in an expeditious way with individual complaints concerning children's rights. In this regard, the Committee further recommends that the State party consider seeking technical assistance from, among others, the United Nations Development Programme (UNDP), UNICEF and the Office of the High Commissioner for Human Rights (OHCHR).

Data collection

18. The Committee is concerned at the lack of an adequate mechanism for the systematic collection of comprehensive disaggregated data for all areas covered by the Convention and in relation to all groups of children for the purpose of monitoring and evaluating progress achieved and assessing the impact of policies adopted with respect to children.

19. The Committee, while noting with appreciation that the Census of Population and Housing of 1999 provides a wealth of statistical information on children, encourages the State party to use this as a basis for the development of a regular and methodical system of comprehensive data collection consistent with the Convention. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect, or ill-treatment; children with disabilities; teenage mothers; teenagers who commit suicide; children in conflict with the law; children born out of wedlock; children who work; adopted children; and children living in the outer island communities. It further encourages the State party to use indicators and data in the formulation of policies and programmes for the effective implementation of the Convention.

Dissemination of the principles and provisions of the Convention

20. While noting the efforts of the State party in disseminating information about the Convention, the Committee is concerned that the principles and provisions of the Convention are not disseminated at all levels of society.

21. The Committee recommends that the State party develop more creative methods to promote the Convention, including through visual aids such as picture books and posters, along with traditional methods of communication. The Committee also recommends adequate and systematic training and/or sensitization of professional groups working with and for children, such as judges, lawyers, law enforcement personnel, teachers, school administrators and health personnel. The Committee further recommends that efforts be made to sensitize civil society, including community leaders, NGOs and the media, about children's rights with a view to changing negative traditional public attitudes and to facilitate broad participation in the dissemination and promotion of the Convention. The State party is encouraged to fully integrate the Convention into the curricula at all levels of the educational system. It is suggested that the State party seek technical assistance from, among others, OHCHR, UNICEF and UNESCO.

Civil society

22. The Committee expresses its concern at the insufficient participation and involvement of relevant non-governmental organizations and other civil society partners in the formulation and implementations of policies and programmes relating to children.

23. The Committee emphasizes the important role civil society plays as a partner in implementing the provisions of the Convention and recommends that the State party

consider a systematic approach to involve civil society, especially children's associations and advocacy groups, throughout all stages of the implementation of the Convention, including policy-making. Further, it encourages the State party to support initiatives aimed at strengthening the role of civil society and to equip members of civil society with the knowledge and skills essential for working in partnership with local communities.

2. Definition of the child

24. The Committee is concerned about the disparity between the minimum legal age for the marriage of boys (18 years) and that of girls (16 years).

25. In light of article 1 and other related provisions and principles of the Convention, the Committee encourages the State party to pursue its efforts to review its legislation with a view to increasing the minimum age of marriage for girls to that for boys in order to bring it into full conformity with the provisions and principles of the Convention.

3. General principles

General principles

26. The Committee, noting that the State party's general approach is more welfare oriented rather than child rights based, is concerned that the principles of the best interests of the child (art. 3) and the right to life and development (art. 6) are not fully reflected in the State party's legislation, its administrative and judicial decisions, or its policies and programmes relevant to children. Further, the Committee expresses its concern that the principle of respect for the privacy of the family, guaranteed by the Constitution and customary practice, may limit interventions within the family which, in accordance with article 9 of the Convention, may be in the best interests of the child.

27. The Committee recommends that the general principles of the Convention, in particular the provisions of its articles 3 and 6, should be appropriately integrated in all revisions to legislation as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children and should guide the determination of policy-making at every level and in particular actions taken by social welfare institutions, courts of law and administrative authorities.

Non-discrimination

28. The Committee is concerned that the principle of non-discrimination (art. 2) is not fully implemented for children living in the outer islands and in poor urban communities, especially with regard to their access to adequate health and educational facilities.

29. The Committee recommends that the State party collect disaggregated data to enable effective monitoring of potential discrimination, in particular against girls, children living in poor urban communities and in the outer islands and those with disabilities.

Respect for the views of the child

30. The Committee notes with concern that traditional attitudes still prevailing in the country may not be conducive to the full participation of children in family, school and social life.

31. The Committee recommends that the State party seek to develop a systematic approach, with the involvement of professionals working with children, in particular teachers, and civil society, including community leaders and NGOs, to increase public awareness of the participatory rights of children and encourage respect for the views of the child within the family, schools, and generally in society. Further, it encourages the State party to recognize the right of children to have their views heard and taken into account in the determination of policy-making at every level and in particular actions taken by social welfare institutions, courts of law and administrative authorities.

4. Civil rights and freedoms

Birth registration

32. In light of article 7 of the Convention which requires the registration of children "immediately after birth", the Committee expresses its concern at the insufficient measures undertaken to ensure the birth registration of all children, in particular those living in the outer island communities.

33. The Committee recommends that special efforts be developed to guarantee an effective system of birth registration to ensure that all children fully enjoy their fundamental rights. In that regard, it encourages the State party to develop more widespread awareness among the population of the importance of birth registration and to improve the registration system, including by providing mobile registration units in the outer islands.

Access to appropriate information

34. The Committee notes with concern that children living in the outer islands do not have adequate access to information and material from a diversity of national and international sources aimed at promoting the child's development and physical and mental health. It is also concerned that children are not adequately protected from violence and pornography on television, in video films and in other media.

35. The Committee recommends that the State party reinforce measures for the production of programmes and books for children and disseminate them within the country, in particular the outer islands, and in this regard envisage taking steps for the introduction of the use of computers in schools. In light of articles 13, 17 and 18 of the Convention, it further encourages the State party to develop appropriate guidelines and legislation for the protection of the child from information and material injurious to his or her development, in particular violence and pornography, and also to develop programmes to educate parents.

Corporal punishment

36. The Committee is concerned that the use of corporal punishment within the family, schools, other institutions, and generally within society is not expressly prohibited by law.

37. In light of articles 19, 28 (2) and 37 of the Convention, the Committee recommends that the State party adopt appropriate legislative measures to prohibit the use of any form of corporal punishment within the family, schools and other institutions. It also encourages the State party to develop measures to raise awareness about the negative effects of corporal punishment and ensure that alternative forms of discipline are administered in families, schools and other institutions in a manner consistent with the child's dignity and in conformity with the Convention.

5. Family environment and alternative care

Parental responsibilities

38. The Committee expresses its concern at the many children in urban areas who are left unattended at home while their parents are at work or pursue leisure activities and notes that, owing to recent and rapid urbanization, assistance from extended family support networks is not always available. Further, it takes note with concern that single parenthood and teenage pregnancy are also increasing.

39. The Committee recommends that the State party continue and strengthen its measures and programmes to educate and provide counselling on parental responsibilities to the general public. In light of articles 18 and 21 of the Convention, it also urges the State party to consider developing comprehensive measures to encourage responsible parenthood and to assist needy families with their child-rearing responsibilities, for instance by offering social assistance to families or by securing childcare services and facilities for working parents.

Adoption

40. The Committee is concerned at the lack of criteria for monitoring, evaluation and follow-up of domestic adoptions, and at the absence of information and data about the practice of "customary adoptions" by family members. Also, it notes with concern that in intercountry adoptions the children concerned are not adequately protected.

41. The Committee, while noting with appreciation that the legislation on adoption is under review with the technical assistance of UNICEF, recommends that all adoption placements be monitored and periodically reviewed by the authorities. Further, it encourages the State party to undertake a study, including data disaggregated by gender, age and rural/urban area provenance, to analyse the phenomenon of "customary adoptions" by family members with a view to understanding the scope and nature of this practice and adopting adequate policies and measures. Further, the Committee

recommends that the State party ensure that children involved in intercountry adoptions enjoy the same safeguards and standards as regulate domestic adoptions. It also encourages the State party to consider ratifying the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993.

Child's right to protection from all forms of violence

42. While noting the Child Abuse and Neglect Act, the Committee remains concerned about the lack of data, appropriate measures, mechanisms and resources for the prevention of and fight against domestic violence, including child sexual abuse, and the absence of public debate and awareness-raising on this issue. It also expresses its deep concern that incest is not expressly prohibited by law, even though it is forbidden by customary practice, and that the legislation protects only girls from sexual abuses.

43. In light of article 19, the Committee recommends that the State party undertake studies on domestic violence, ill-treatment and abuse, including sexual abuse, in order to understand the scope and nature of these practices, adopt adequate measures and policies, and contribute to changing attitudes. The Committee also recommends that cases of domestic violence and ill-treatment and abuse of children, including sexual abuse within the family, be properly investigated within a child-friendly investigative and judicial procedure, especially in light of the restrictive rules on evidence against family members, and sanctions applied to perpetrators, with due regard given to protecting the right to privacy of the child. Measures should also be taken to ensure the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims. It also recommends that the State party adopt appropriate legislative measures to prohibit incest and protect boys as well as girls from sexual abuse. The Committee recommends that the State party seek technical assistance from, among others, UNICEF and WHO.

6. Basic health and welfare

Health and health services

44. While noting the efforts of the State party to improve the general situation of health such as the development of a Fifteen-Year Strategic Health Plan for the years 2001 to 2015, the Committee is nevertheless concerned that the survival and development of children within the State party continue to be threatened by illnesses caused by inadequate sanitation, hygiene and diet, and that vitamin A and iodine deficiencies are widespread. The Committee is also concerned about the insufficient number of local trained health workers; wide discrepancies in the distribution of health professionals between communities; limited access to health services in the outer island communities; and poor sanitation and limited access to safe drinking water, particularly in recently developed urban areas and the outer islands communities.

45. The Committee recommends that the State party allocate appropriate resources and develop comprehensive policies and programmes to improve the health situation of children and facilitate greater access to primary health services. It encourages the State party to continue its efforts to reduce the incidence of child and infant mortality and to undertake additional measures to increase access to safe drinking water and to improve sanitation. Further, with reference to the lack of trained local health workers and the tendency for these workers to emigrate, the Committee recommends that the State party reinforce its efforts to recruit and train more health workers and take appropriate measures to encourage those trained abroad to return after their training and practise in the Marshall Islands, in particular in the outer islands. Additionally, the Committee encourages the State party to continue its technical cooperation programmes with the Asian Development Bank (ADB), UNICEF, WHO and others to improve primary health care.

Malnutrition

46. The Committee, while noting that the State party has implemented a food and nutrition programme, expresses its concern at the increasing number of cases of malnutrition, due also to overcrowding in urban areas and the importation of food having high levels of sugar and fat, and at the low levels of breastfeeding.

47. The Committee recommends that the State party strengthen its nutrition programme in order to prevent and combat malnutrition and assess the impact of the programme on those affected with a view eventually to improving its effectiveness, in particular by encouraging healthier nutritional habits. It further encourages the National Nutrition and Children's Council to continue its work on a national breastfeeding policy.

Children with disabilities

48. While noting with appreciation the activities of the Maternal and Child Health programme (MCH) regarding the assistance to and rehabilitation of children with disabilities and the establishment of an Inter-agency Council for Disabled Persons following the Conference on Disability and Law in March 2000, the Committee remains concerned that insufficient efforts have been made in practice to protect the rights of children with disabilities.

49. The Committee recommends that the State party allocate the necessary resources for programmes and facilities for children with disabilities. In light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and the Committee's recommendations adopted at its day of general discussion on "The rights of children with disabilities" (see CRC/C/69), it is also recommended that the State party develop early identification programmes to prevent disabilities, establish special education programmes for children with disabilities and further encourage their integration into the educational system and inclusion into society. The Committee recommends that the State party seek technical cooperation for the training of persons working with and for children with disabilities from, among others, UNICEF and WHO.

Adolescent health

50. The Committee expresses its concern regarding the limited availability of programmes and services in the area of adolescent health problems, including accidents, suicide, violence, the increase in sexually transmitted diseases (STDs) and abortions. The Committee is also particularly concerned at the high and increasing incidence of teenage pregnancy and the increasing rates of suicide, especially among young boys, as well as the increase in the use of alcohol and tobacco among youth, in particular young girls.

51. The Committee recommends that the State party increase its efforts to promote adolescent health policies, particularly with respect to accidents, suicides, violence, alcohol consumption and tobacco abuse. The Committee further suggests that a comprehensive and multidisciplinary study be undertaken in order to understand the scope of adolescent health problems, including the negative impact of early pregnancy, STDs and HIV/AIDS. It is also recommended that the State party undertake further measures, including the allocation of adequate human and financial resources, to evaluate the effectiveness of training programmes in health education, in particular reproductive health, and to develop youth-friendly counselling, care and rehabilitation facilities that are accessible, without parental consent when in the best interests of the child. The State party is urged to strengthen reproductive health education programmes for adolescents and to ensure that men are included in all training programmes on reproductive health. The Committee encourages the State party to continue its technical cooperation programmes with the United Nations Population Fund (UNFPA) and UNICEF on these issues and to seek additional technical cooperation from WHO and UNAIDS.

7. Education, leisure and cultural activities

Education

52. While noting with interest the number of national efforts to review the system of education in the State party, in particular the Education Act of 1991, the Committee is concerned about the low enrolment rate in elementary and secondary schools; the high drop-out rate of students in high schools: the insufficient numbers and low standard of trained/qualified teachers and schools available, in particular in the outer islands; the poor quality of education and the lack of vocational training in schools. Further, the Committee expresses its concern at the lack of play space and recreational facilities for children, both in the urban centres and in the outer islands.

53. In light of article 28 of the Convention, the Committee recommends that the State party undertake appropriate measures to ensure regular attendance at schools, the reduction of drop-out rates and the incorporation of vocational education in school curricula. It also encourages the State party to continue to strengthen the teacher training programme in order to increase the number of trained teachers and improve the quality of teaching. The Committee further recommends that the State party seek to ensure the right of the child to rest and leisure and to engage in play and recreational activities, inter alia, by developing appropriate facilities, including in the outer islands. The Committee

recommends that the State party continue to strengthen its technical cooperation programmes with the ADB and other partners in order to develop a thorough and efficient educational system.

8. Special protection measures

Economic exploitation

54. The Committee is concerned at the absence of specific legislation regulating child labour and at the lack of information and data on this issue, especially in view of the high drop-out rates in high schools.

55. In light of existing international norms and standards, the Committee recommends that the State party develop legislation on child labour including a prohibition, as well as a definition of hazardous and harmful work and/or of the activities considered to be hazardous, harmful to the child's health or development or to interfere with the child's education; an indication of the minimum age for admission to employment; and appropriate regulation of the working hours and conditions of employment of children. It further encourages the State party to consider ratifying ILO Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. In this regard, the Committee encourages the State party to seek technical cooperation for the development of the legislation from ILO.

Administration of justice

56. While acknowledging the existence of a Juvenile Procedure Act and the important fact that professionals working in the juvenile justice system have received training on the provisions of the Convention, the Committee remains concerned that the juvenile justice system is not fully in compliance with the Convention. This applies in particular to the failure to separate juvenile and adult prisoners and the use of the concept of status offences which punishes behaviour by a child that would not be punishable if committed by an adult.

57. The Committee recommends that the State party review its law and practices regarding the juvenile justice system in order to bring it into full compliance with the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), with a view to abolishing status offences and ensuring child-friendly practices at the police and other levels of the juvenile justice system and the separation of juvenile and adult offenders in prison. With regard to the last, the State party is encouraged expeditiously to complete the building of the prison facility that will allow for the separation of juvenile and adult prisoners. The Committee further recommends that the State party seek assistance from, among others, OHCHR, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

Sexual exploitation

58. The Committee, while noting the establishment of a task force on prostitution within the Ministry of the Interior and the preparation of legislation on prostitution, nevertheless notes with concern the vulnerability of young girls in particular to sexual exploitation and abuse.

59. The Committee recommends that the State party expedite the adoption of the legislation on prostitution and undertake a study on this issue in order to understand its scope and causes, to enable effective monitoring of the problem and to develop all necessary measures and programmes to prevent and combat sexual exploitation and abuse of children taking into account the Agenda for Action of the Stockholm World Congress against Commercial Sexual Exploitation of Children. The Committee also invites the State party to consider ratifying the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography.

9. Dissemination of documents from the reporting process

60. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government and the general public, including NGOs.